IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2006

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA
AND
THE HONOURABLE MR. JUSTICE K. MOHAN RAM
AND
THE HONOURABLE MR. JUSTICE M. JAICHANDREN

WRIT APPEAL NO.2079 OF 2003
AND
WRIT PETITION NOS.10937, 11076 AND 15518 OF 2003

WRIT APPEAL NO.2079 OF 2003:-

The Union of India
rep. by its Secretary to Government
Ministry of Environment and Forests
Paryavaran Bhavan,CGO Complex
Lodhi Marg, New Delhi. ... Appellant

Vs.

1. Member Secretary
Chennai Metropolitan
Development Authority
Gandhi Irwin Road
Egmore, Chennai 600 008.

2. Shri T.R. Balu
Honourable Minister for
Environment and Forests
Ministry of Environment
and Forests, New Delhi. ... Respondents

Citizen
Consumer & Civic Action
Group (CAG)
rep. by its Trustee Mrs. Tara Murali ... Petitioner in WP.10937/03

Indian National Trust for Art and
Cultural Heritage (TNTACH)
Rep. by its Convenor
Mr.P.T. Krishnan, Tamil Nadu
Regional Chapter, Chennai 6. ... Petitioner in WP.11076/03

Vs.

1. The Government of Tamil Nadu
rep. by its Chief Secretary
Fort St. George, Chennai 9.

2. The Secretary to Government
Union of India
Ministry of Environment & Forests
Paryavaran Bhavan, CGO Complex,
Lodhi Road, New Delhi.

3. The Member Secretary
National Coastal Zone Management
Authority C/o. Ministry of
Environment & Forests
Paryavaran Bhavan, CGO Complex
Lodhi Road, New Delhi.

4. The Secretary to Government
Department of Environment & Forests
Fort St. George, Chennai 9.

5. The State of Tamil Nadu
rep. by its Secretary to
Government, Housing & Urban
Development Department
Fort St. George, Chennai 9.

6. The Member Secretary
Tamil Nadu Coastal Zone Management
Authority, Panagal Buildings,
Chennai 600 015.

7. The Secretary to Government of
Tamil Nadu, Public Works Dept.,
Fort St. George, Chennai 9.

8. The Secretary to Government
Revenue Department
Fort St. George, Chennai 9.

9. The Member Secretary
Chennai Metropolitan Development
Authority, Thalamuthu Natarajan
Maligai, Chennai 600 008.

10. The Commissioner
Corporation of Chennai
Chennai 600 003.

11. The Groundwater Regulatory Authority
Ministry of Water Resources
Union of India, Shram Bhavan
New Delhi. ... Respondents in WPs.10937 & 11076/2003
12. The University of Madras
Rep. by its Registrar
Kamaraj Salai, Chennai 5. ... 12th Respondent in
WP.No.11076/2003

W.P.NO.15518 OF 2003

Member Secretary
Chennai Metropolitan
Development Authority
Gandhi Irwin Road
Egmore, Chennai 600 008. ... Petitioner

Vs.

1. The Union of India
rep. by its Secretary to Government
Ministry of Environment and Forests
Paryavaran Bhavan
CGO Complex
Lodhi Marg, New Delhi.

2. Shri T.R. Balu
Honourable Minister for
Environment and Forests
Ministry of Environment
and Forests, New Delhi.

3. Citizen
Consumer & Civic Action
Group (CAG)
rep. by its Trustee
Mrs. Tara Murali,
No.8, 4th Street,
Venkateswara Nagar,
Adayar,Chennai 600 020
(R3 impleaded as per order dated
17.6.2003 in WPMP.20122/03)

4. Bombay Environmental Action Group,
203, Rajendra Chambers,
19, Nanabhar Lane Fort,
Bombay 400 001.
(R4 impleaded as per order dated

17.6.2003 in WPMP.20123/03) ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent has been filed against the order of the learned single Judge in WPMP.No.19488 of 2003 in W.P.No.15518 of 2003 dated 27.5.2003.

Writ Petition Nos.10937, 11076 and 15518 of 2003 have been filed under Article 226 of the Constitution of India for the issuance of writ of mandamus / writ of certiorari as stated therein.

Mr.V.T. Gopalan, Additional Solicitor General of India
Assisted by Mr.P. Wilson, ACGSC for the Appellant in
W.A.No.2079 of 2003 and Respondents 2 and 3 in
W.P.Nos.10937, 11076 and 15518 of 2003

Mr.T. Mohan for the petitioner
in W.P.Nos.10937 & 11076 of 2003

Mr.K.A. Kandasamy for the petitioner in W.P.No.15518 of 2003

Mr.P.S. Raman, Addl. Advocate General
Assisted by Mr.V. Srikanth, A.G.P.,
Mr.B.K. Girish Neelakandan Govt. Advocate for Respondent 1
in W.P.No.11076 of 2003 and W.A.No.2079 of 2003

COMMON JUDGMENT

P.K. MISRA, J.

W.P.No.10937/2003 and W.P.No.11076 of 2003 have been filed for issuing writ of mandamus directing the first respondent to undertake an immediate and wholesome review of the present Coastal Regulatory Zone Classification relating to Chennai City and to declare ecologically and architecturally significant areas including the stretch on the Marina from the Santhome Church to the High Court, Madras as Coastal regulation Zone-I (CRZ-I).

2. During pendency of such writ petitions, the Government took a decision not to demolish the college building and to construct the secretariat at a different place.

3. While the writ petitions were pending, the Central Government amended the earlier notification relating to Coastal Regulatory Zone. Such amendment was challenged in W.P.No.15518/2003, which was filed by the Member-Secretary, Chennai Metropolitan Development Authority. Such writ petition was entertained by a learned Single Judge and an order of interim stay of such notification till 25.06.2003 was passed by the learned single Judge by order, dated 27.05.2003. The learned Single Judge also directed that such writ petition No.15518/2003 should be listed along with the other pending writ petitions, namely, W.P.Nos.10937/2003 and W.P.No.11076/2003. Thereafter such W.P.No.15518/2003 was placed before the Division Bench and the Division Bench extended such interim order from time to time. The question of maintainability of W.P.No.15518/2003 was raised by the respondents in view of Article 131 of the Constitution of India. In the meantime, the Union of India had filed Writ Appeal No.2079/2003 against the interlocutory order, dated 27.05.2003, in W.P.No.15518/2003 and all the matters were placed before the Division Bench.

4. In the above background, the Division Bench has referred the matters to the Full Bench by observing as follows:-

" 4. The main point which is raised is the applicability of the impugned notification for construction activities, which is not related to industries. The contention of the learned Advocate General is that the impugned notification which is issued under a rule, which has been framed in exercise of the rule making power under Environmental Protection Act, 1986, cannot be invoked for any activity, which is not concerned with the industrial activity. The rival contention is Environmental Protection Act is applicable to all kinds of construction and developmental activities and is all pervasive. Incidentally a question is also raised as to whether the CMDA can file the writ petition in view of Article 131 of the Constitution of India. Several other points including the validity of dispensing with the requirement of issuing the draft notification and providing opportunity of raising objections have also been raised.

5. A co-ordinate Bench of two judges by judgment dated 14.12.1995 in W.A.No.1287 of 1995 and W.P.No.5971 of 1995 held that CRZ Regulations are applicable only to particular kind of construction activity and not for all activities. The learned Advocate General very much relies upon Paragraph 14 of the above judgment. Against the said judgment, SLP (Civil) No.13463 & 13464 of 1996 was filed. But the said petition was dismissed by the Supreme Court by order dated 12.2.1998 with an observation that the questions of law decided by the High Court are left open to be decided in an appropriate case by the Supreme Court, thus giving a finality to the verdict of the High Court only on the facts of that case. As the findings on law by the Division Bench referred to above, and which is relied upon by the learned Advocate General has not attained finality in the Supreme Court, the said legal point is very much alive for adjudication. In view of this, we are of the considered view that the matter should be adjudicated by a Full Bench of three judges. All other points raised are also kept alive to be dealt with by the Full Bench."

5. A perusal of the order of reference makes it clear that the following questions arise for determination:

(a)Whether provisions of the Environmental Protection Act, 1986 and the Rules made thereunder can be invoked for regulating any activity which is not concerned with industrial activity?

(b)Whether CMDA can file writ petition in High Court challenging the validity of a statutory notification issued by Central Government in view of Article 131 of the Constitution of India.

(c)Validity of such notification;

(d)All other connected questions.

6. At the outset, the learned Additional Solicitor General appearing on behalf of the Union of India in the Writ Appeal submitted that subsequently the State Government changed its mind and abandoned the idea of demolishing the Queen Mary's College and constructing the secretariat building on such land. It is further submitted that the interim order passed by the learned single Judge was for a limited period till 26.6.2003 and though the appeal was filed on 2.6.2003, such appeal has practically become infructuous and therefore it may not be necessary to deal with the question raised in W.A.No.2079 of 2003. In view of the aforesaid submission, it is not necessary to deal with the question as to whether the learned single Judge was justified in passing the order of stay, which at any rate was till 26.6.2003.

7. W.P.No.15518 of 2003 has been filed by the Member Secretary, Chennai Metropolitan

Development Authority against the Union of India challenging the Notification dated 22.4.2003 issued by the Secretary to Government in the Ministry of Environment and Forests. In the affidavit filed in support of such writ petition, it has been asserted that the writ has been filed as per the instruction of the State Government and as permitted by the State Government.

8. The learned Additional Advocate General now appearing for such writ petition has produced before us a D.O. Letter No.20938/EC.3/2006-3, dated 21.8.2006 written by the Secretary to Government (State Government), Environment and Forests Department addressed to the Member Secretary of Chennai Metropolitan Development Authority. The letter is to the following effect:-

" D.O. Letter No.20938/EC.3/2006-3, Dated 21.8.2006
Dear Thiru Md. Nasimuddin,
Sub: Environment-Amendment to Coastal
Regulation Zone Notification, 1991
vide Notification S.O.460(E), dated
22.4.2003-W.P.No.15518/2003 filed
by the Chennai Metropolitan
Development Authority-Withdrawal
of the case Requested.
Ref : 1. Govt.D.O.Lr.No.9956/EC.3/2003,
Environment and Forests
Department, dated 21.5.2003.
2. Your D.O.Lr.No.LD3/13193/2003,
dated 14.8.2006.

I am to invite a reference to your D.O. Letter second cited and to request you to withdraw the W.P.15518/2003 filed by the Chennai Metropolitan Development Authority challenging the Notification, dated 22.4.2003 issued by the Government of India, Ministry of Environment and Forests, New Delhi, in view of the changed circumstances including the dropping of the proposal to put up the Secretariat at the Queen Marys College Complex.

With Regards,
Yours faithfully,

To
Thiru.Md.Nasimuddin, I.A.S.,
Member Secretary
Chennai Metropolitan Development
Authority, Egmore, Chennai-8."

9. In view of such instruction, the learned Additional Advocate General submitted that W.P.No.15518/2003 may be permitted to be withdrawn. He has therefore submitted that in view of the instruction of the petitioner to withdraw the writ petition, the question as to whether the writ can be filed in the High Court in view of Article 131 of the Constitution of India need not be decided.

10. The learned Additional Solicitor General appearing for the Union of India submitted that if the writ petition is withdrawn, the question referred to by the Division Bench, particularly relating to the right of the Secretary, Chennai Metropolitan Development Authority to file writ petition in the High Court and applicability of Article 131, need not be decided. In view of such submission made by the

counsel for both parties, the writ petition can be dismissed as withdrawn.

11. However, before closing the writ petition as withdrawn, we feel constrained to express our strong doubt regarding the maintainability of such writ petition. Since the petitioner has expressed intention to withdraw the writ petition, it may not be necessary to consider as to whether the writ petition is maintainable in the High Court in view of Article 131 of the Constitution. Counsels have also submitted that even though the writ petition purports to be filed on behalf of the State, the nomenclature shows that such writ petition has been filed by the Member-Secretary, Chennai Metropolitan Development Authority and the cause title does not indicate that the State is represented through the Secretary, CMDA. Therefore, prima facie, Article 131 may not have any application and at any rate there is no necessity to go into such question. However, we have our strong doubt regarding the maintainability of such writ petition at the instance of the Member-Secretary, Chennai Metropolitan Development Authority.

12. In this context, it is noticed that under Section 9(b) of the Tamil Nadu Town and Country Planning Act, 1971, the Metropolitan Development Authority, a body corporate, shall have perpetual succession and a common seal and subject to such restriction or qualification as may be imposed by or under this Act or any other law, may sue or be sued in its corporate name.

13. In such writ petition filed by the Member Secretary for and on behalf of the CMDA or even on behalf the State Government, grave doubt arises as to whether such a writ petition challenging the validity of the Notification issued by the Central Government can be filed by such statutory authority, which is supposed to implement the Notification issued by the Central Government pertaining to matters relating to protection of environment. Prima facie, filing of the writ petition appears to be on ill-advise and untenable. However, since the writ petition has been now withdrawn, it is not necessary to delve further in such matter. Accordingly, the W.P.No.15518 of 2003 is dismissed as withdrawn and Writ Appeal No.2079 of 2003 arising out of an interlocutory order is dismissed as infructuous.

14. In the two other writ petitions, apart from the question of reviewing Coastal Zone classification, the decision of CMDA to demolish the college and the decision of the State Government to construct the Secretariat on such land are indirectly in question.

15. So far as the question of demolition is concerned, it is now apparent that the authorities have subsequently decided not to demolish the college and therefore the question has become academic. However, the question which remains for determination is regarding the permissibility of making construction on lands coming within the Coastal Regulation Zones. For the aforesaid purpose, it is necessary to notice the relevant provisions as well as various decisions.

16. Relevant provisions of the Environment (Protection) Act, 1986 (herein after referred to as the "Act") are required to be noticed. The relevant definition clauses are extracted hereunder:-

"2. Definitions.

(a) "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property'

(b) "environment pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment;

(c) "environmental pollution" means the presence in the environment of any environmental pollutant;"

17. Section 3 of the Act empowers the Central Government to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.

18. Section 3 (2) of the Act lays down that without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the matters indicated.

19. Section 3(2)(ii) of the Act refers to planning and execution of a nation wide programme for the prevention, control and abatement of environmental pollution.

20. Section 3(2)(v) of the Act relates to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards.

21. Section 3(2)(xiv) of the Act relates to such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

22. Section 5 of the Act empowers the Central Government, in the exercise of its powers and performance of its functions under this Act, to issue directions in writing to any person, officer or any authority and further prescribes that such person, officer or authority shall be bound to comply with such directions.

23. Section 6 of the Act empowers the Central Government to make rules in respect of all or any of the matters referred to in section 3.

24. Section 25 of the Act also contains the rule making powers of the Central Government and in some respects appear to be extension of rule making powers and envisaged under Section 6 of the Act. In exercise of such powers under Sections 6 and 25 of the Environment (Protection) Rules, 1986 have been framed.

25. Under Rule 5 of the Rules, it is envisaged that the Central Government may take into consideration the factors indicated under such rule, while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas. Among other things, the Central Government may take into consideration the topographic and climatic features of an area (see 5 (1)(iv)), environmentally compatible land use (see 5(1)(vi), net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted (see 5(1)(vii), proximity to human settlements (see 5(1)ix), any other factors as may be considered by the Central Government to be relevant to the protection of the environment in an area (see 5(1)(x).

26. Under Section 5(2) of the Act while prohibiting or restricting the location of industries and carrying on of processes and operations in an area, the Central Government shall follow the procedure laid down. However, under section 5(4) of the Act, notwithstanding the above, the Central Government may dispense with the requirement of notice under section 5(3)(a) of the Act, if it appears to the Central Government that it is a public interest to do so.

27. It is not disputed that in accordance with the provisions contained in the Act, the Notification

dated 19.2.1991 had been issued.

28. Under such Notification, the entire coastal line has been declared as Coastal Regulation Zone (CRZ). Such Coastal Regulation Zone have been classified as CRZ(1) (2) (3) and (4).

29. As per para 2 of such Notification, the activities indicated in such clause had been declared as prohibited within the Coastal Regulation Zone. Clause (i) relates to setting up of new industries and expansion of existing industries, except those directly related to water front or directly needing foreshore facilities. Clause (vi) prohibits dumping of city or town waste for the purpose of landfilling or otherwise. Clause (ix) prohibits mining of sands, rocks and other substrata materials, except those rare minerals not available outside the CRZ areas. Clause (xi) prohibits construction activities in CRZ in ecologically sensitive areas as specified in Annexure-I of the Notification. Clause (xii) prohibits any construction activity between the Low Tide Line and High Tide Line except facilities for carrying treated effluents and waste water discharges into the sea, facilities for carrying sea water for cooling purposes, oil, gas and similar pipelines and facilities essential for activities permitted under this Notification. Para 3 enumerates the permissible activities and provides that all other activities except those prohibited in para-2 would be regulated as per para-3. This permissible activities lay down inter alia that the activities indicated in Clause 3(2) will require environmental clearance from the Ministry of Environment and Forests, Government of India.

30. Clause 3(2)(i), 3(2)(ii) and 3(2)(iv) are extracted hereunder.
" Clause 3(2)(i): Construction activities related to projects of Department of Atomic Energy or Defence requirements for which foreshore facilities are essential such as, slipways, jetties, wharves, quays; except for classified operational component of defence projects for which a separate procedure shall be followed. (Residential buildings, office buildings, hospital complexes, workshops shall not come within the definition of operational requirements except in very special cases and hence shall not normally be permitted in the CRZ).
Clause 3(2)(ii), Operational constructions for ports and harbours and light houses and constructions for activities such as jetties, wharves, quays and slipways, pipelines, conveying systems including transmission lines.
Clause 3(2)(iv), All other activities with investment exceeding rupees five crores except those activities which are to be regulated by the concerned authorities at the State/Union Territory level in accordance with the provisions of paragraph-6, sub-paragraph (2) of Annexure 1 of the Notification. (Emphasis added)

31. This requirement under Clause 3(2)(iv) relating to obtaining approval from the Ministry of Environment and Forests in respect of activities with investment exceeding rupees five crores had been subsequently amended. But again under the Notification impugned in the connected Writ Petition No.15518 of 2003, the original provision has been restored as 3(2)(v). In other words, as per the present requirement, the sanction of the Ministry of Environment and Forests is required, if the costs of the project is more than five crores. According to the learned counsel appearing for the petitioner, even though the provisions contained in the Environment (Protection) Act, 1986, the rules made thereunder and the different Notifications and directions issued contemplate prohibition of regulation of various activities including activities relating to construction of buildings and structures etc, the provisions are being erroneously interpreted to mean that the activities must be connected with any industrial activity and not for construction of buildings for dwelling purpose.

32. The learned counsel for the petitioner submitted that such misinterpretation has arisen because of observation made by a Division Bench judgment dated 14.12.1995 in W.P.Nos.5971 and W.A.No.1287 of 1995. The learned counsel for the petitioner submitted that even though the

discussion made in the said decision should not be relied upon as a precedent in view of the fact that such discussion was purely obiter and at any rate had been specifically left open by the Supreme Court in SLP No.13463-64/98 arising out of such decision, such observation is being erroneously considered as laying down the principle of law to be followed in subsequent decisions.

33. The learned Addl. Solicitor General has also submitted that at any rate, as apparent from the provisions contained in the Act, Rules and the Notifications , activities sought to be controlled under the Act are not necessarily confined to industrial activities.

34. It is first necessary to notice the relevant observation made in W.P.No.5971 of 1995 and W.A.No.1287 of 1995. After noticing the various provisions in the CRZ Notification dated 19.2.1991, such observation was made in paragraph-14 of the judgment, which is extracted hereunder:

" 14. According to the learned Advocate General who has appeared for the second respondent, clause (iv) of sub-paragraph (2) must be understood in the context to refer only to such activities as would fall within the same category of the activities referred to in clauses (i)(ii) and (iii). In other words, the contention is that the principle of ejusdem generis should be applied in this case. A perusal of the entire sub-paragraph shows that the contention is well-founded. Clauses (i), (ii) and (iii) refer to activities which cannot be clubbed by their own nature with construction of residential buildings. Though the expression "all other activities" is very wide, we cannot in the context interpret the said expression as to include construction of residential buildings. The expression can only refer to activities similar to and of the same kind as set out in clauses (i), (ii) and (iii)."

35. The above judgment of the Madras High Court was challenged in S.L.P.Nos.13463 and 13464 of 1998. The Supreme Court while dismissing the SLP filed against the aforesaid judgment observed:-

 ... After hearing Counsel on both sides and after carefully going through the judgments under challenge, we find that no case for interference is made out on findings, based on facts. However, we make it clear that the questions of law argued and decided by the High Court are left open to be decided in an appropriate case by this Court. Findings of the High Court on facts are restricted to the special facts of these cases. ...

36. Apart from the fact that the question was expressly left open by the Supreme Court, it is apparent that the observation made in paragraph-14 was wholly unnecessary for the purpose of deciding W.P.No.5971/1995 and W.A.No.1287/1995. As a matter of fact, in paragraphs 7 and 8 of the judgment, the Division Bench had observed as follows:-

" 7. .... The 6th respondent raised a contention that the provisions of Environment (Protection) Act, 1986, the rule made thereunder and the Notification of the Central Government dated 19.2.1991 relate only to industries, operations or processes and they will not apply to construction of residential buildings.

8. Prima facie, there is some force in the argument of learned counsel for the 6th respondent, but we decided not to take up that contention for determination in this case for two reasons:- (1) It is not necessary for the disposal of the present writ petition. (2) The Standing Counsel for the Central Government represented that the fourth respondent had not received notice in the writ petition and he had not received instructions from the Government. Hence, we are leaving open the question of the applicability of the Act, the Rules and the Notification to residential buildings."
(Emphasis supplied)

37. From the aforesaid observations made by the Division Bench, it is apparent that the question as

to whether the provisions of the Environment (Protection) Act and the Rules made thereunder and the Notification of the Central Government dated 19.2.1991 will not apply to construction of residential buildings had been specifically left open even by the Division Bench as apparent from the concluding remarks in paragraph-8. Unfortunately, however, in spite of such discussion in paragraphs 7 and 8, the Division Bench proceeded to observe in paragraph-14 that the expression contained in the Notification particularly in clause (iv) paragraph-2 would not include construction of residential buildings and such expression can only refer to activities similar to one of the same kind in clauses 1, 2 and 3 had been made, which was totally unnecessary.

38. As already pointed out, even the Supreme Court had also subsequently observed that the question of law decided by the Division Bench was left open. It is therefore obvious that the observations made in paragraph 14 of the judgment in W.P.No.5975/1995 cannot be considered to be a binding precedent.

39. However, such observations have been subsequently interpreted to be laying down the principle of law to be followed, as apparent from the observations made in the judgment dated 4.9.1997 in W.P.No.1569 of 1997 and WMP.Nos.2593, 7817 and 7958 of 1997. Similarly such decision was also understood to have laid down the principle in a subsequent decision dated 2.11.2001 in W.A.Nos.1291 and 1663 of 1997 and W.P.No.8030 of 2000 and CMP.Nos.15015, 15016 of 1997 and 10381 of 2001 and WMP.Nos.11746, 12162/2000 and 25836 of 2001. In our opinion, it cannot be laid down as a general principle of law that various provisions contained in the Environment (Protection) Act, the Rules and the Notifications thereunder are applicable only to the industrial activities or other similar activities. Keeping in view the purpose for which such Act was enacted, the expressions contained in the Act should be given the widest possible meaning so as to prevent the possibility of any environmental degradation. The expressions are wide enough to include any activity including the construction of building even for residential purpose. For example, if the zone is coming with CRZ-1, all activities are prohibited within the particular area specified and it does not matter whether such activities are industry related or otherwise. Similarly, in CRZ-2, activities like construction of residential building can be prohibited if the provisions contained in the Act, the Rules or the CRZ Notifications are contravened. It is also clear that it is immaterial as to whether the proposed construction activity is by any individual or Government or public sector undertaking. In our opinion, the Division Bench decision, which has been subsequently followed, did not lay down the law correctly when it was stated that the activities prohibited/regulated did not relate to construction activity for residential purpose and only related to industrial activities.

40. Now coming to the specific prayers made in W.P.NO.10937 of 2003 and W.P.No.11076 of 2003, the immediate apprehension of the petitioners regarding demolition of Queen Mary's College had abated in view of the subsequent events. In the notification dated 22.4.2003, issued by the Ministry of Environment and Forests, relating to Coastal Regulatory Zone, provisions have been made numbered as paragraph 3(2)(iv) relating to demolition and reconstruction of buildings of archaeological and historical importance, heritage buildings and buildings under public use. In view of such changed scenario, it is not necessary to issue any particular writ or direction in the matter.

41. Subject to aforesaid observations, the W.P.Nos.10937 and 11076 of 2003 are disposed of. W.P.No.15518 of 2003 is dismissed as withdrawn and W.A.No.2079 of 2003 is dismissed as infructuous. No costs.

kb/dpk

To

1. The Government of Tamil Nadu
rep. by its Chief Secretary
Fort St. George
Chennai 600 009.

2. The Secretary to Government
Union of India
Ministry of Environment & Forests
Paryavaran Bhavan
CGO Complex, Lodhi Road
New Delhi.

3. The Member Secretary
National Coastal Zone Management
Authority C/o. Ministry of
Environment & Forests
Paryavaran Bhavan, CGO Complex
Lodhi Road, New Delhi.

4. The Secretary to Government
Department of Environment & Forests
Fort St. George, Chennai 9.

5. The State of Tamil Nadu
rep. by its Secretary to
Government, Housing & Urban
Development Department
Fort St. George
Chennai 600 009.

6. The Member Secretary
Tamil Nadu Coastal Zone Management
Authority, Panagal Buildings,
Chennai 600 015.

7. The Secretary to Government of
Tamil Nadu, Public Works Dept.,
Fort St. George
Chennai 600 009.

8. The Secretary to Government
Revenue Department
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Chennai 9.

9. The Member Secretary
Chennai Metropolitan Development
Authority, Thalamuthu Natarajan
Maligai, Chennai 600 008.

10. The Commissioner
Corporation of Chennai
Chennai 600 003.

11. The Groundwater Regulatory Authority
Ministry of Water Resources
Union of India
Shram Bhavan
New Delhi.

[PRV/7957]